

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re application of: Pellet and Sanchez-Martinez

Patent No. 6,126,944

FILED VIA EFS

Filed: June 7, 1995

Confirmation No. 9681

For: BACULOVIRUS EXPRESSION VECTORS
AND RECOMBINANT ANTIGENS FOR
DETECTING TYPE-SPECIFIC
ANTIBODIES TO HERPES SIMPLEX
VIRUS

Examiner: Kenya A. McLaughlin

Art Unit: N/A

Attorney Reference No. 6395-87124-02

SUBMITTED VIA THE ELECTRONIC FILING SYSTEM (EFS)
COMMISSIONER FOR PATENTS

DECLARATION OF GWENDOLYN SPRATT

1. I, Gwendolyn Spratt, am an Assistant General Counsel for Georgia State University. I was an attorney at Ballard Spahr (formerly Needle & Rosenberg) until July 31, 2009. I was the responsible attorney at Ballard Spahr (and formerly Needle & Rosenberg) for Centers for Disease Control and Prevention (CDC) matters. I oversaw file transfers from Needle & Rosenberg (and later Ballard Spahr) to the CDC and its new patent firms, including the file transfer for the above-referenced patent.

2. Needle & Rosenberg was retained as counsel for the CDC on a patent services contract that was completed on August 31, 2005. On September 1, 2006, the CDC awarded a new seven-year patent services contract to two new law firms. These two firms were Klarquist Sparkman LLP (hereinafter "Klarquist Sparkman") and Gifford, Krass, Sprinkle, Anderson & Citowski, P.C. (hereinafter "Gifford Krass"). As Needle & Rosenberg was no longer a designated contract law firm for the CDC, at the request of the CDC, the firm began transferring the active files in 2006, so that these matters could be handled by new contract attorneys at Klarquist Sparkman and Gifford Krass. At that time, Needle and Rosenberg also retained many inactive files for later transfer.

3. The transfers of responsibility for CDC active matters occurred over an extended period of time as funds already obligated to Needle & Rosenberg under the prior contact were depleted. Needle & Rosenberg remained responsible for any active patent or patent application, such as U.S. Patent No. 6,126,944, until the obligated funds for that matter were depleted. As funds for a matter were depleted on an active matter, the CDC often provided instructions to Needle & Rosenberg for transferring the active matters to one of its new law firms. However, by mid-2007 Needle & Rosenberg still had possession of many active and inactive files. Since Needle & Rosenberg's patent services contract with CDC had expired and the funding was depleted, that firm boxed the remaining CDC files in its possession and sent them directly to CDC in September and November of 2007. The files sent directly to CDC at that time contained mostly inactive but a few active matters, including the file for the referenced U.S. Patent No. 6,126,944 and U.S. Patent No. 6,013,433.

4. Needle & Rosenberg had standard procedures in place for transferring these files. These procedures were listed on a checklist. As each task was completed for the transfer of each file, the checklist was to be completed by the party at Needle & Rosenberg (later Ballard Spahr) responsible for the particular transfer task. My understanding is that Ballard and Spahr has provided to Klärquist Sparkman the checklist for the shipment that included U.S. Patent No. 6,126,944. I do not recall if there was a specific policy in place in 2007 with regard to where to transfer active CDC files and where to transfer inactive CDC files. However, it was generally the case, at least in 2006, that active files were not sent directly to CDC.

5. All statements made herein and of my own knowledge are true and all statements made on information are believed to be true; and further, these statements were made with the knowledge that willful false statements and like are punishable by fine or imprisonment, or both, under Section 1001 of Title 18 of the United States Code, and that any such willful false statements made may jeopardize the validity of the application or any patent issuing thereon.

Date

Gwendolyn Spratt